

COMMITTEE REPORT

House Insurance Committee
May 8, 1996

Viatical Settlements—Regulation 58

(Editor's Note: The full text of this proposed rule can be viewed on pages 148–150 in the February 1996 *Louisiana Register*.)

Pursuant to the provisions of R.S. 49:968, the House of Representatives Insurance Committee met on May 8, 1996 to review proposed Regulation 58, relative to viatical settlements submitted by the Department of Insurance.

There was lengthy testimony and discussion of the entire regulation. The committee found that a number of provisions needed modification and after a motion to reject with suggestions on changes to the proposed regulation, voted unanimously to reject proposed Regulation 58.

The following provisions were objected to by the committee:

1. Section 5(D)(G)

(a) Paragraph (D). This provision of the regulation provides for the *cancellation* of a license. The enabling legislation provides for *revocation* only. Use of the term "cancellation" is beyond the scope of the enabling legislation, therefore, the committee suggested that the word cancellation be replaced with revocation.

(b) Paragraph (G). This provision requires that a minimum capital requirement be established. Testimony from representatives of the department indicated that this language referenced a deposit of cash or cash equivalents only. The enabling legislation at R.S. 22:210(A)(3) permits the establishment of the capital requirement with a bond or deposit. Failure to include authority for use of a bond is not in conformity with the intent of the enabling legislation; therefore, the committee suggested that this provision include the authority to use a bond to establish the capital requirement.

2. Section 6(D)

This provision provides for the issuance of a limited license to persons wishing to become a viatical settlement broker. The enabling legislation provides for no such authority, therefore, this provision is beyond the scope of the enabling legislation. The committee suggested that this language be deleted from the regulation.

3. Section 7

The first three sentences of this section are found in the enabling legislation at R.S. 22:205 and are therefore unnecessary. The committee suggested deleting these sentences.

4. Section 9

(a) The first paragraph of this section, including the indented language, requires *minimum discounts* on the face value of a policy. The enabling legislation at R.S. 22:209(C)(1) mandates *minimum amounts* of the face value of a policy to be paid to a person selling a life insurance policy. This provision is not in conformity with the intent of the enabling legislation; therefore, the committee suggested deleting this language.

(b) The Department of Insurance is required by R.S. 22:209(C)(3) to establish rules and regulations detailing the procedure for obtaining a variance. The regulation is devoid of any such procedure and therefore not in conformity with the intent of the enabling legislation. The committee suggested that the department include a procedure as required by R.S. 22:209(C)(3).

5. Section 10(B)

This section of the regulation permits installment payments of the proceeds received pursuant to a viatical settlement. The enabling legislation at R.S. 22:209(E) provides that the proceeds be transferred immediately. This provision is beyond the scope of the enabling legislation; therefore, the committee suggested that the last sentence of Section 10(B) be deleted.

The representatives of the Department of Insurance concurred in these substantive changes and agreed to resubmit the rule with the aforementioned changes following review by the governor.

Representative James J. Donelon
Chairman